

### **REMARKS**

In the Office Action mailed December 11, 2006, the Examiner rejected claims 21-29. After entry of this amendment, claims 33-52 will be pending with claims 33-52 newly added. Applicants have cancelled claims 21-32 so as not to confuse the Examiner with the changes made therein. Support for the new claims may be found in the original claims, throughout the specification, and within the scope of the elected claims from the restriction requirement. No new matter has been added.

The foregoing amendments are taken in the interest of expediting prosecution and there is no intention of surrendering any range of equivalents to which Applicant would otherwise be entitled in view of the prior art.

I. **Drawings**

The Office Action objected to the drawings as not showing every feature of the invention directed to the limitation of claim 26. The objection is moot as claim 26 has been cancelled and new claims 33-52 have been added. Accordingly, the drawings are in compliance with 37 CFR 1.83(a) showing every feature of the invention specified in the new claims 33-52.

II. **Specification**

The Office Action objected to the abstract of the disclosure because it is directed to attachment of infrared heaters only, rather than the combination with the means for storing and supplying asphalt and liquid. The claims and the abstract have been amended to overcome the objection.

The Office Action objected the specification because it does not contain section headings. The specification has been amended to overcome the objection.

The Office Action objected the specification because a description of the trademark material FECRALLOY® was not provided and the trademark name was not in all capital letters. The specification has been amended to overcome the

objection. Please see Exhibit A for technical data sheet of the trademark material FECRALLOY®.

III. Claim Objections

The Examiner objected to claims 25, 27, and 29 for lack of proper antecedent basis. The claims have been canceled and new claims 33-52 have been added to overcome the objection.

The Examiner objected to claim 26 for lack of positive recitation of a specific part due to the equivocal nature of the term. The claim has been canceled and new claims 33-52 have been added to overcome the objection.

The Examiner noted that the limitations which follow the recitations of "optionally" in claims 21, 22, and 28... The claims have been canceled and new claims 33-52 have been added.

IV. Rejection under 35 U.S.C § 112

The Examiner rejected claim 22, 26, 27, and 29 under 35 U.S.C. §112, second paragraph as indefinite. Without conceding the validity of the rejection, the dependency, antecedent basis, and grammar issues identified by the Examiner have been taken into account in the amended claims. These rejections are moot in view of the amendments to the claims. Withdrawal of this rejection is respectfully requested.

V. Rejection under 35 U.S.C. § 102

Claims 21, 23, and 28 were rejected under 35 USC §102(b) as being anticipated by U.S. Patent 4,534,674, to Cutler. Applicants respectfully disagree.

Applicants have cancelled claims 21–29 and added claims 33–52 reciting to equipment for repair of asphalt surfaces. In view of the foregoing, Applicants are of the opinion that claims 33–52 are now even further distinguished over the prior art of record, particularly Cutler. Accordingly, Applicants believe that claims 33–52 are in condition for allowance. In particular, Cutler does not teach the claimed combination as a whole, particularly, a single vehicle combination that

includes a heating gas source, at least one heater mounted to the vehicle for pivotal articulation relative to an adjoining structure of the vehicle for moving the at least one heater towards and away from a surface to be repaired, a hot new asphalt source, a rejuvenating liquid source located forward of the at least one heater, and a rejuvenating liquid dispenser.

VI. Rejection under 35 U.S.C. § 103

The Examiner rejected claims 24 and 29 under 35 U.S.C. §103(a) as obvious over Cutler, as applied above. This rejection is moot in view of the cancelled claims 21-29 and the newly added claims 33-52. As such, Applicants respectfully request the rejections under 35 U.S.C 103 be withdrawn.

The Examiner rejected claims 21-29 under 35 U.S.C. §103(a) as obvious over Weaver, (U.S. Patent 3,625,489). This rejection is moot in view of the cancelled claims 21-29 and the newly added claims 33-52. As such, Applicants respectfully request the rejections under 35 U.S.C 103 be withdrawn.

The Examiner rejected claims 21-29 under 35 U.S.C. §103(a) as obvious over Harvey, (U.S. Patent 6,619,881). This rejection is moot in view of the cancelled claims 21-29 and the newly added claims 33-52. As such, Applicants respectfully request the rejections under 35 U.S.C 103 be withdrawn.

The Examiner provides no teaching or motivation in the prior art or knowledge of the skilled artisan to use a single vehicle combination as a whole that includes a heating gas source, at least one heater mounted to the vehicle for pivotal articulation relative to an adjoining structure of the vehicle for moving the at least one heater towards and away from a surface to be repaired, a hot new asphalt source, a rejuvenating liquid source located forward of the at least one heater, and a rejuvenating liquid dispenser as is claimed in the present application.

Accordingly, no prima facie case of obviousness has been advanced in as much as there appears to be no proper analysis to demonstrate how or why a person of ordinary skill in the art would have combined the prior art elements in the manner claimed.

VII. Additional New Claims

Claims 33-52 have been added to the present application to address one or more aspect of the present invention. These new claims are believed to be patentable over the references of record.

VIII. Notice of Noncompliance for the Response to Office Action

The amendments to the Abstract have been removed from the "Amendments to the Specification" section and added to the "Amendments to the Abstract" section. The Response to the Office Action mailed Dec. 11, 2006 is now in compliance.

By the present amendment, it does not follow that the amended claims have become so perfect in their description that no one could devise an equivalent. After amendment, as before, limitations in the ability to describe the present invention in language in the patent claims naturally prevent the Applicants from capturing every nuance of the invention or describing with complete precision the range of its novelty or every possible equivalent. See, Festo Corp. v. Shoketsu Kinzoku Kogyo Kabushiki Co., 62 USPQ2d 1705 (2002). Accordingly, the foregoing amendments are made specifically in the interest of expediting prosecution and there is no intention of surrendering any range of equivalents to which Applicants would otherwise be entitled.

**CONCLUSIONS**

In view of Applicants' amendments and remarks, the Examiner's rejections are believed to be rendered moot. Accordingly, Applicants submit that the present application is in condition for allowance and requests that the Examiner pass the case to issue at the earliest convenience. Should the Examiner have any question or wish to further discuss this application, Applicant requests that the Examiner contact the undersigned at (248) 292-2920.

If for some reason Applicant has not requested a sufficient extension and/or have not paid a sufficient fee for this response and/or for the extension necessary to prevent the abandonment of this application, please consider this as a request for an extension for the required time period and/or authorization to charge our Deposit Account No. 50-1097 for any fee which may be due.

Dated: 5/25/2007

Respectfully submitted,

A handwritten signature in black ink, appearing to read 'D. Zdurna', written over a horizontal line.

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